
By: **Prince George's County Delegation**

Introduced and read first time: February 5, 2003

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County - Education - Procurement - School Construction**
3 **Contracts - Construction Quality Assurance Act**
4 **PG 407-03**

5 FOR the purpose of authorizing the best value contracting method of procurement for
6 certain school construction contracts in Prince George's County; requiring a best
7 value request for proposals to contain certain information; requiring proposals
8 submitted in response to a best value request for proposals to contain certain
9 information, including information pertaining to certain required prelisted
10 subcontractors; requiring proposals submitted in response to a best value
11 request for proposals to be evaluated in a certain manner by certain evaluation
12 teams; defining certain terms; providing for the application of this Act;
13 establishing that this Act is to be known as the Prince George's County
14 Construction Quality Assurance Act; and generally relating to the Prince
15 George's County Construction Quality Assurance Act.

16 BY repealing and reenacting, without amendments,
17 Article - Education
18 Section 2-303(f)
19 Annotated Code of Maryland
20 (2001 Replacement Volume and 2002 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - Education
23 Section 5-112 and 5-301
24 Annotated Code of Maryland
25 (2001 Replacement Volume and 2002 Supplement)

26 BY adding to
27 Article - Education
28 Section 5-1A-01 through 5-1A-10, inclusive, to be under the new subtitle
29 "Subtitle 1A. Prince George's County School Construction Quality
30 Assurance Act"

1 Annotated Code of Maryland
2 (2001 Replacement Volume and 2002 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Education**

6 2-303.

7 (f) (1) Subject to the bylaws, rules, and regulations of the State Board, the
8 State Superintendent shall approve or disapprove each:

9 (i) Proposal for the purchase or sale of any ground, school site, or
10 building;

11 (ii) Plan or specification for the remodeling of a school building if
12 the remodeling costs more than \$350,000;

13 (iii) Plan or specification for the construction of a new school
14 building; and

15 (iv) Change order that costs more than \$25,000 for the remodeling,
16 restoration, or construction of a school building.

17 (2) If the State Superintendent disapproves any plan, specification,
18 proposal, or change order, he shall state in writing the reasons for his disapproval.

19 (3) If the construction is to be done by a county board, the board may not
20 begin until the plans and specifications are approved in writing by the State
21 Superintendent.

22 (4) If the construction is to be done by contract, the contract is invalid
23 without the written approval of the State Superintendent.

24 5-112.

25 (a) This section does not apply to:

26 (1) Contracts for the purchase of books and other materials of instruction
27 as defined in the State Department of Education Financial Reporting Manual;

28 (2) Emergency repairs; and

29 (3) A county board's participation in contracts for goods or commodities
30 that are awarded by other public agencies or by intergovernmental purchasing
31 organizations if the lead agency for the contract follows public bidding procedures.

32 (b) (1) If the cost of any school building, improvement, supplies, or
33 equipment is more than \$15,000, the county board, at least 2 weeks before bids are to

1 be filed, shall advertise for bids in a medium accessible to the general public, which
2 includes:

- 3 (i) A newspaper of general circulation in the region;
- 4 (ii) The Maryland Contract Weekly or comparable State
5 publication; or
- 6 (iii) An electronic posting on a bid board and physical posting on the
7 local school system bid board.

8 (2) (i) The county board shall draft specifications that provide a clear
9 and accurate description of the functional characteristics or the nature of an item to
10 be procured, without modifying the county board's requirements.

11 (ii) The specifications may:

- 12 1. Include a statement of any of the county board's
13 requirements; and
- 14 2. Provide for the submission of samples, inspection, or
15 testing of the item before procurement.

16 (3) (i) Except as provided in subparagraph (ii) of this subsection,
17 specifications that use one or more manufacturer's product to describe the standard of
18 quality, performance, or other characteristics needed to meet the county board's
19 requirements, must allow for the submission of equivalent products.

20 (ii) Subparagraph (i) of this paragraph does not apply if the county
21 board determines in the written specification that:

- 22 1. A particular manufacturer's product is required to
23 maintain compatibility of service or equipment;
- 24 2. A particular manufacturer's product is required to meet
25 the health needs of students;
- 26 3. Replacement parts or maintenance are a paramount
27 consideration; or
- 28 4. A product is purchased for resale.

29 (c) (1) [A] SUBJECT TO SUBTITLE 1A OF THIS TITLE, A contract for the
30 school building, improvements, supplies, or other equipment shall be awarded to the
31 lowest responsible bidder who conforms to specifications with consideration given to:

- 32 (i) The quantities involved;
- 33 (ii) The time required for delivery;
- 34 (iii) The purpose for which required;

- 1 (iv) The competency and responsibility of the bidder;
- 2 (v) The ability of the bidder to perform satisfactory service; and
- 3 (vi) The plan for utilization of minority contractors.

4 (2) The county board may reject any and all bids and readvertise for
5 other bids.

6 (d) (1) In this subsection, the term "minority business enterprise" has the
7 meaning stated in § 14-301 of the State Finance and Procurement Article.

8 (2) In Montgomery County, by resolution and by implementing
9 regulations, the Montgomery County Board of Education shall establish a minority
10 business utilization program to facilitate the participation of responsible certified
11 minority business enterprises in contracts awarded by the Montgomery County Board
12 of Education in accordance with competitive bidding procedures.

13 (e) Nonpublic schools may participate under any contracts for goods or
14 commodities that are awarded by county boards, other public agencies, or
15 intergovernmental purchasing organizations, if the lead agency for the contract
16 award follows public bidding procedures.

17 (f) A contract entered into or purchase made in violation of this section is void.

18 SUBTITLE 1A. PRINCE GEORGE'S COUNTY SCHOOL CONSTRUCTION QUALITY
19 ASSURANCE ACT.

20 5-1A-01.

21 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (B) "COMPETITIVE BEST VALUE CONTRACTING" MEANS A METHOD OF
24 PROCUREMENT THAT:

25 (1) UTILIZES THE SOLICITATION OF COMPETITIVE SEALED PROPOSALS;
26 AND

27 (2) REQUIRES THE EVALUATION OF PRICE PROPOSALS AND TECHNICAL
28 PROPOSALS TO MAKE CONTRACT AWARDS THAT REPRESENT THE BEST VALUE TO
29 THE PROCUREMENT UNIT, THE COUNTY, AND THE STATE.

30 (C) "COUNTY" MEANS PRINCE GEORGE'S COUNTY.

31 (D) "MANAGEMENT PLAN" MEANS A PLAN FOR MANAGING THE
32 CONSTRUCTION CONTRACT WHICH DEMONSTRATES THE OFFEROR'S TECHNICAL
33 QUALIFICATIONS AND COMPETENCY FOR THE PROJECT AND INCLUDES:

34 (1) KEY MANAGEMENT PERSONNEL PROPOSED FOR THE PROJECT;

- 1 (2) PROPOSED PROJECT SCHEDULE;
- 2 (3) QUALITY CONTROL PROGRAMS; AND
- 3 (4) SAFETY PROGRAMS.

4 (E) "MBE" MEANS A MINORITY BUSINESS ENTERPRISE CERTIFIED BY THE
5 STATE UNDER § 14-301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

6 (F) "PAST PERFORMANCE" MEANS INFORMATION AND DATA ON A
7 CONTRACTOR'S OR SUBCONTRACTOR'S PERFORMANCE ON CONSTRUCTION
8 PROJECTS SIMILAR IN SIZE AND SCOPE TO THE PROCUREMENT CONTRACT FOR THE
9 PAST 3 YEARS AND INCLUDES THE DEGREE TO WHICH THE CONTRACTOR OR
10 SUBCONTRACTOR:

- 11 (1) COMPLETED PROJECTS SAFELY, ON TIME, AND ON BUDGET;
- 12 (2) COMPLIED WITH PROJECT PLANS AND SPECIFICATIONS;
- 13 (3) FULFILLED CONTRACTING GOALS ESTABLISHED BY TITLE 14,
14 SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND
- 15 (4) COMPLIED WITH APPLICABLE LAWS AND REGULATIONS.

16 (G) "PROJECT STAFFING PLAN" MEANS A PLAN DEMONSTRATING A
17 CONTRACTOR'S OR SUBCONTRACTOR'S CAPABILITY TO RECRUIT AND RETAIN
18 SUFFICIENT NUMBERS OF QUALIFIED CONSTRUCTION CRAFT PERSONNEL FOR THE
19 PROCUREMENT PROJECT AND SHALL INCLUDE:

- 20 (1) SOURCES TO BE USED BY THE CONTRACTOR OR SUBCONTRACTOR
21 FOR OBTAINING CRAFT PERSONNEL;
- 22 (2) TYPES OF TRAINING PROVIDED BY THE CONTRACTOR OR
23 SUBCONTRACTOR;
- 24 (3) IDENTIFICATION OF TRAINING PROVIDERS;
- 25 (4) THE DEGREE TO WHICH APPRENTICESHIP TRAINING PROGRAMS
26 REGISTERED WITH THE U.S. DEPARTMENT OF LABOR OR STATE APPRENTICESHIP
27 COUNCIL ARE USED; AND
- 28 (5) THE AMOUNT OF TIME AND RESOURCES INVESTED IN
29 APPRENTICESHIP PROGRAMS AND OTHER CRAFT TRAINING PROGRAMS.

30 (H) "TECHNICAL EVALUATION CRITERIA" MEANS PAST PERFORMANCE,
31 MANAGEMENT PLAN, PROJECT STAFFING PLAN, PROPOSED PLAN FOR MEETING THE
32 CONTRACTING GOALS ESTABLISHED BY TITLE 14, SUBTITLE 3 OF THE STATE
33 FINANCE AND PROCUREMENT ARTICLE, OR OTHER TECHNICAL CRITERIA LISTED IN
34 THE REQUEST FOR PROPOSALS ISSUED UNDER THIS SUBTITLE.

1 (I) "TECHNICAL PROPOSAL" MEANS A PROPOSAL CONTAINING INFORMATION
2 AND DATA REGARDING THE TECHNICAL EVALUATION CRITERIA OF AN OFFEROR AND
3 THE OFFEROR'S PRELISTED SUBCONTRACTORS FOR THE PROCUREMENT CONTRACT.
4 5-1A-02.

5 DUE TO THE INHERENT COMPLEXITIES AND UNIQUE DEMANDS OF
6 CONSTRUCTION CONTRACTING, INCLUDING THE NEED IN THE CONTRACTOR
7 SELECTION PROCESS TO CAREFULLY CONSIDER AND EVALUATE CERTAIN
8 PERFORMANCE AND QUALIFICATION FACTORS, IT IS THE POLICY OF THE COUNTY TO
9 UTILIZE COMPETITIVE BEST VALUE CONTRACTING FOR CONSTRUCTION
10 PROCUREMENT CONTRACTS FOR COUNTY SCHOOLS TO THE GREATEST EXTENT
11 POSSIBLE.

12 5-1A-03.

13 THE COUNTY BOARD MAY UTILIZE THE COMPETITIVE BEST VALUE
14 CONTRACTING METHOD FOR ANY CONSTRUCTION CONTRACT FOR A SCHOOL SITE,
15 SCHOOL REMODELING, OR NEW SCHOOL BUILDING IN THE COUNTY THAT IS
16 SUBJECT TO § 2-303(F) OF THIS ARTICLE.

17 5-1A-04.

18 (A) WHEN A PROCUREMENT IS BASED ON COMPETITIVE BEST VALUE
19 CONTRACTING, THE COUNTY BOARD SHALL SEEK COMPETITIVE SEALED PROPOSALS
20 BY ISSUING A REQUEST FOR PROPOSALS UNDER THIS SECTION.

21 (B) A REQUEST FOR PROPOSALS UNDER THIS SECTION SHALL INCLUDE:

22 (1) THE DATE, TIME, AND PLACE FOR SUBMITTING THE PROPOSAL;

23 (2) A STATEMENT REQUIRING AN OFFEROR TO SUBMIT A SEPARATE
24 PRICE PROPOSAL AND TECHNICAL PROPOSAL ACCORDING TO THE FORMAT SET
25 FORTH IN THE REQUEST FOR PROPOSALS;

26 (3) THE PROJECT SPECIFICATIONS; AND

27 (4) EXCEPT AS PROVIDED IN § 5-1A-05 OF THIS SUBTITLE, THE
28 FOLLOWING PRICE AND TECHNICAL EVALUATION CRITERIA AND THEIR RESPECTIVE
29 WEIGHTS FOR EVALUATION PURPOSES:

30 (I) PRICE - 70%;

31 (II) PAST PERFORMANCE - 13%;

32 (III) MANAGEMENT PLAN - 5%;

33 (IV) PROJECT STAFFING PLAN - 5%; AND

34 (V) FULFILLMENT OF CONTRACTING GOALS ESTABLISHED BY
35 TITLE 14, SUBTITLE 3 OF THIS ARTICLE - 7%.

1 (C) THE COUNTY BOARD SHALL GIVE PUBLIC NOTICE OF A REQUEST FOR
2 PROPOSALS UNDER THIS SECTION IN THE SAME MANNER AS REQUIRED FOR AN
3 INVITATION FOR COMPETITIVE SEALED BIDS UNDER § 5-112 OF THIS ARTICLE.

4 5-1A-05.

5 (A) THE COUNTY BOARD'S PROCUREMENT OFFICER MAY DETERMINE, IN
6 WRITING, THAT IT IS IN THE INTEREST OF THE COUNTY AND THE STATE TO INCLUDE
7 ADDITIONAL TECHNICAL EVALUATION CRITERIA OR ASSIGN WEIGHTS TO THE
8 CRITERIA DIFFERENT THAN THOSE SET FORTH IN § 5-1A-04(B)(4) OF THIS SUBTITLE,
9 SUBJECT TO THE FOLLOWING REQUIREMENTS:

10 (1) THE RELATIVE WEIGHT OF PRICE MAY NOT BE LESS THAN 50% OF
11 THE TOTAL WEIGHT;

12 (2) THE TECHNICAL EVALUATION CRITERIA SET FORTH IN §
13 5-1A-04(B)(4) OF THIS SUBTITLE SHALL BE INCLUDED; AND

14 (3) ANY ADDITIONAL TECHNICAL EVALUATION CRITERIA SHALL BE
15 RELEVANT TO THE SUCCESSFUL COMPLETION OF THE CONTRACT OR OTHERWISE IN
16 THE BEST INTERESTS OF THE COUNTY AND THE STATE.

17 (B) TECHNICAL EVALUATION CRITERIA AND RELATIVE WEIGHTS ASSIGNED
18 UNDER THIS SECTION MUST BE CLEARLY SET FORTH IN THE REQUEST FOR
19 PROPOSALS.

20 5-1A-06.

21 (A) TECHNICAL PROPOSALS SUBMITTED UNDER THIS SUBTITLE MUST
22 INCLUDE THE QUALIFICATIONS AND CAPABILITIES OF THE OFFEROR AND ITS
23 PRELISTED SUBCONTRACTOR AND BE RESPONSIVE TO THE TECHNICAL EVALUATION
24 CRITERIA ESTABLISHED IN THE REQUEST FOR PROPOSALS.

25 (B) IN ADDITION TO ALL OTHER INFORMATION RESPONSIVE TO THE
26 REQUIREMENTS IDENTIFIED IN THE REQUEST FOR PROPOSAL, AN OFFEROR
27 SUBMITTING A PROPOSAL UNDER THIS SUBTITLE MUST INCLUDE THE FOLLOWING:

28 (1) A LIST OF ALL SUBCONTRACTORS PROPOSED FOR THE
29 PROCUREMENT CONTRACT WHOSE SUBCONTRACTS ARE VALUED AT \$500,000 OR
30 MORE;

31 (2) A LIST OF MBE FIRMS AND OTHER FIRMS THAT THE OFFEROR
32 PROPOSES FOR MEETING THE CONTRACTING GOALS ESTABLISHED BY TITLE 14,
33 SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

34 (3) AN IDENTIFICATION OF THE TYPE OF WORK TO BE PERFORMED BY
35 EACH PRELISTED SUBCONTRACTOR.

36 (C) AN OFFEROR MAY NOT PRELIST ALTERNATE SUBCONTRACTORS.

1 (D) AN OFFEROR MAY NOT SUBSTITUTE AN ALTERNATE SUBCONTRACTOR
2 FOR A PRELISTED SUBCONTRACTOR WITHOUT THE EXPRESS, WRITTEN
3 AUTHORIZATION OF THE COUNTY BOARD'S PROCUREMENT OFFICER PRIOR TO THE
4 COMMENCEMENT OF WORK.

5 5-1A-07.

6 (A) PRICE PROPOSALS SHALL REMAIN SEALED UNTIL ALL TECHNICAL
7 PROPOSALS HAVE BEEN EVALUATED.

8 (B) (1) TECHNICAL PROPOSALS SHALL BE EVALUATED AND SCORED BY A
9 TECHNICAL EVALUATION TEAM CONSISTING OF AT LEAST THREE PERSONS
10 EXPERIENCED IN CONSTRUCTION PROCUREMENT.

11 (2) EACH TECHNICAL FACTOR SPECIFIED IN THE REQUEST FOR
12 PROPOSALS SHALL BE GIVEN A NUMERICAL SCORE IN ACCORDANCE WITH THE
13 WEIGHT ASSIGNED TO IT IN THE REQUEST FOR PROPOSALS BASED ON THE
14 EVALUATION PROCESS CONDUCTED BY THE TECHNICAL EVALUATION TEAM.

15 (3) TECHNICAL EVALUATION SCORES SHALL BE BASED ON AN
16 EVALUATION OF THE OFFEROR AND ITS PRELISTED SUBCONTRACTORS BASED ON
17 RELEVANT INFORMATION AND DATA OBTAINED BY THE TECHNICAL EVALUATION
18 TEAM.

19 (4) IF AN OFFEROR OR A LISTED SUBCONTRACTOR IS A NEW BUSINESS
20 AND DOES NOT HAVE A PERFORMANCE RECORD SUFFICIENT TO EVALUATE ITS PAST
21 PERFORMANCE, THE TECHNICAL EVALUATION TEAM SHALL CONSIDER THE PAST
22 PERFORMANCE OF THE OFFEROR'S OR SUBCONTRACTOR'S OFFICERS, MANAGEMENT,
23 AND OWNERS OR PARTNERS.

24 (5) WHEN AN OFFEROR IS A JOINT VENTURE, THE TECHNICAL
25 EVALUATION TEAM SHALL CONSIDER THE QUALIFICATIONS OF ALL ENTITIES
26 INCLUDED IN THE JOINT VENTURE.

27 (6) A TOTAL TECHNICAL EVALUATION SCORE SHALL BE OBTAINED BY
28 ADDING THE SCORES ON ALL TECHNICAL EVALUATION FACTORS.

29 (C) ONCE A TOTAL TECHNICAL EVALUATION SCORE HAS BEEN DETERMINED,
30 PRICE PROPOSALS SHALL BE OPENED AND SCORED AS FOLLOWS:

31 (1) THE OFFEROR SUBMITTING THE LOWEST PRICE SHALL RECEIVE THE
32 MAXIMUM PRICE SCORE, ACCORDING TO THE PERCENTAGE VALUE STATED FOR
33 PRICE IN THE REQUEST FOR PROPOSALS; AND

34 (2) THE PRICE PROPOSED BY EACH SUCCESSIVE OFFEROR SHALL BE
35 SCORED RELATIVE TO THE LOWEST PRICE, ACCORDING TO THE FOLLOWING
36 FORMULA:

37 (I) THE LOWEST PRICE OFFERED SHALL BE DIVIDED BY THE NEXT
38 LOWEST PRICE;

1 (II) THE RESULTING FIGURE SHALL BE MULTIPLIED BY THE
2 PERCENTAGE VALUE FOR PRICE STATED IN THE REQUEST FOR PROPOSALS; AND

3 (III) THE PRICE SCORE OF EACH ADDITIONAL OFFEROR SHALL BE
4 CALCULATED IN THE SAME MANNER.

5 (D) THE PRICE SCORE AND FINAL TECHNICAL SCORE OF EACH PROPOSAL
6 SHALL BE COMBINED FOR A TOTAL SCORE.

7 (E) THE OFFEROR WITH THE HIGHEST TOTAL SCORE SHALL BE AWARDED
8 THE PROCUREMENT CONTRACT, PROVIDED ITS PROPOSAL IS RESPONSIVE TO THE
9 REQUEST FOR PROPOSALS AND SPECIFICATIONS AND IT IS DETERMINED TO BE A
10 RESPONSIBLE CONTRACTOR.

11 5-1A-08.

12 (A) AN UNSUCCESSFUL OFFEROR SHALL RECEIVE, AT THE REQUEST OF THE
13 OFFEROR, A DEBRIEFING BY THE COUNTY BOARD'S PROCUREMENT OFFICER WHO
14 SHALL PROVIDE, AT A MINIMUM:

15 (1) THE PRICE AND FINAL TECHNICAL SCORE OF THE SUCCESSFUL
16 OFFEROR;

17 (2) THE FINAL TECHNICAL SCORE OF THE OFFEROR REQUESTING THE
18 DEBRIEFING; AND

19 (3) THE OVERALL RANKING OF ALL OFFERORS, IF A RANKING WAS
20 DEVELOPED.

21 (B) THE DEBRIEFING BY THE COUNTY BOARD'S PROCUREMENT OFFICER MAY
22 NOT DISCLOSE ANY INFORMATION PROHIBITED FROM DISCLOSURE BY LAW.

23 5-1A-09.

24 (A) TO THE EXTENT THAT THE REGULATIONS SET FORTH IN COMAR 21.05.03
25 GOVERNING COMPETITIVE SEALED PROPOSALS ARE CONSISTENT WITH THIS
26 SUBTITLE, THESE REGULATIONS SHALL APPLY.

27 (B) THE COUNTY BOARD MAY DEVELOP ADDITIONAL REGULATIONS
28 NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

29 5-1A-10.

30 THIS SUBTITLE MAY BE CITED AS THE "PRINCE GEORGE'S COUNTY
31 CONSTRUCTION QUALITY ASSURANCE ACT".

32 5-301.

33 (a) (1) For the purposes of this section other than subsection (c), the Board
34 of Public Works shall define by regulation what constitutes an approved public school
35 construction or capital improvement cost.

1 (2) The cost of acquiring land may not be considered a construction or
2 capital improvement cost and may not be paid by the State.

3 (b) The State shall pay the costs in excess of available federal funds of all
4 public school construction projects and public school capital improvements in each
5 county if:

6 (1) The projects or improvements have been approved by the Board of
7 Public Works; and

8 (2) Contracts have been executed on or after July 1, 1971 for the projects
9 or improvements.

10 (c) (1) In this subsection, "local debt for school construction" includes any
11 debt incurred as the result of money made available to a county under a bond issue
12 that obligates the credit of the State.

13 (2) Except for general public school construction loan debt outstanding
14 or obligated as of June 30, 1967 for which repayment by a county is no longer
15 required, the State shall reimburse each county for the full costs of principal and
16 interest payments on any local debt for school construction outstanding or obligated
17 as of June 30, 1967.

18 (d) The State shall pay all of the annual cost of debt service on school
19 construction debt incurred by each county that was outstanding or obligated on or
20 after June 30, 1967 for contracts let before June 30, 1967.

21 (e) (1) The Board of Public Works may adopt rules, regulations, and
22 procedures for the administration of the programs provided for by subsections (b) and
23 (d) of this section.

24 (2) The rules, regulations, and procedures adopted by the Board of Public
25 Works may contain requirements for:

26 (i) The development and submission of long range plans;

27 (ii) The submission of annual plans and plans for specific projects;

28 (iii) The submission of other data or information that is relevant to
29 school construction or capital improvement;

30 (iv) The approval of sites, plans, and specifications for the
31 construction of new school buildings or the improvement of existing buildings;

32 (v) Site improvements;

33 (vi) Competitive bidding;

34 (VII) COMPETITIVE BEST VALUE CONTRACTING, AS AUTHORIZED
35 UNDER SUBTITLE 1A OF THIS TITLE;

1 [(vii)] (VIII) The hiring of personnel in connection with school
2 construction or capital improvements;

3 [(viii)] (IX) The actual construction of school buildings or their
4 improvements;

5 [(ix)] (X) The relative roles of different State and local
6 governmental agencies in the planning and construction of school buildings or school
7 capital improvements; and

8 [(x)] (XI) School construction and capital improvements necessary
9 or appropriate for the proper implementation of this section.

10 (3) In adopting any of these requirements, the State Board and the
11 Board of Public Works shall provide for the maximum exercise of initiative by school
12 personnel in each county to insure that the school buildings and improvements meet
13 both the needs of the local communities and the rules and regulations necessary to
14 insure the proper operation of this section and the prudent expenditure of State
15 funds.

16 (f) (1) The Board of Public Works shall develop the rules, regulations, and
17 procedures authorized by this section in consultation with representatives of the
18 county boards and the county governing bodies.

19 (2) Before the adoption, amendment, or repeal of any rule, regulation, or
20 procedure under this section, the Board of Public Works shall give notice of its
21 intended action to the county boards and to the county governing bodies.

22 (3) The Board of Public Works shall permit each county board and
23 county governing body to submit its views with respect to the intended action.

24 (g) The rules, regulations, and procedures of the Board of Public Works
25 adopted under this section and their promulgation are exempt from §§ 10-101
26 through 10-305 of the State Government Article and § 8-127(b) of the State Finance
27 and Procurement Article of the Code.

28 (h) (1) With respect to public school construction or public school capital
29 improvements, including sites for school buildings, the authority, responsibilities,
30 powers, and duties of the following are subject to the rules, regulations, and
31 procedures adopted by the Board of Public Works under this section:

32 (i) The State Board;

33 (ii) The State Superintendent;

34 (iii) The county governments;

35 (iv) The county boards; and

1 (v) All other State or local governmental agencies under this
2 article.

3 (2) If, as to public school construction or public school capital
4 improvements, there is any conflict between the rules, regulations, and procedures of
5 the Board of Public Works and the authority, responsibilities, powers, and duties of
6 the individuals and agencies specified in paragraph (1) of this subsection, the rules,
7 regulations, and procedures of the Board of Public Works shall prevail.

8 (i) The obligation of the State to pay the costs of public school construction
9 and public school capital improvements extends only to those projects or parts of
10 projects that comply with the rules, regulations, and procedures of the Board of Public
11 Works.

12 (j) (1) This subsection does not apply to the proceeds from the sale, lease, or
13 disposition of public school buildings constructed under contracts executed before
14 February 1, 1971.

15 (2) By rule or regulation, the Board of Public Works may require that the
16 proceeds received by a county from the sale, lease, or disposal of any public school
17 building shall be used solely as part of the State funding of the construction of future
18 public school buildings in the county in which the sale, lease, or disposal occurred, if
19 the public school building was:

20 (i) Constructed under a contract executed on or after February 1,
21 1971; and

22 (ii) Paid for primarily with State funds under this section.

23 (3) The part of the proceeds from the sale, lease, or disposal of a public
24 school building that fairly represents the appraised value of land and that part of the
25 cost of the public school building that was funded by the county shall remain as the
26 funds of the county.

27 (k) Whether by budget bill or supplementary appropriation bill, all money
28 appropriated to carry out the purposes of this section is a separate fund that shall be
29 administered by the State Comptroller in accordance with the rules and regulations
30 adopted by the Board of Public Works.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2003.